

City of Key West

FLORIDA

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Human Resources Records Management Training Manual



Information Analysis, Design, Planning and Training

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PUBLIC RECORDS

Florida Public Records Law, as codified in **Chapter 119, Florida Statutes** (F.S.), provides a clear mandate for public agencies to manage public records in a professional manner. In addition to Chapter 119, F.S., a significant body of standards and requirements govern the "life cycle" of Florida's public records, including the Florida Department of State, Division of Library and Information Services' enabling legislation, **Chapter 257, F.S., and Chapters 1B-24 and 1B-26 of the Florida Administrative Code** (F.A.C). To address the complexities associated with Public Records management in the State of Florida, a comprehensive records and information management program is an essential component of any business entity, public or private. It is, therefore, critical to define the scope of the program; and especially to define the term "record."

As defined by s. 119.011(12), F.S., "Public Records means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other material, regardless of physical form or characteristics or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." It is critical to understand that format, media type or duplication does not affect the public record status of information created or received by a public agency. The recommendations contained within this Plan apply to hardcopy as well as digital records, unless otherwise noted. Generally, the City should select media types for retention based on economy and efficiency, with lengthy retention implications in mind, as shall be discussed.

Drafts vs. Support Documents and Working Papers

In *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So. 2d 633 (Fla. 1980), the Florida Supreme Court contrasted the definition of "public records" with the concept of *Precursor* records. **Precursors are not Public Records** and can be thought of as *Drafts* or notes which precede the creation of a final intended record product and are not "intended as final evidence of the knowledge to be recorded." Machine-readable *Intermediate Files* are the digital equivalent to the concept of Precursor as described above. Since media is not a criterion for Public Record status, the concept of a draft allows for editorializing at the word processor during the formulation of a final intended record product. The resulting machine-readable drafts are considered intermediate files "which are precursors of governmental records and not intended as final evidence of the knowledge to be recorded but are utilized by data processing computer equipment to prepare further records." Intermediate Files **are not public records.**

Further, there is no *unfinished business* exception. If the purpose of the record is to perpetuate, communicate or formalize knowledge, then it is a Public Record regardless of whether or not it is in final form. In the absence of a final intended product, precursor or intermediate files (drafts) may constitute the final evidence of knowledge. Drafts cease to be Public Records only after the final intended record has been produced.

Drafts must not be confused with *Support Documents*. **Support Documents or working papers are Public Records.** Working papers *support* the final intended record product, whereas drafts merely precede the creation of a final intended product. Support Documents are Public Records from point of creation to destruction regardless of the final intended record produced. For example, a handwritten note created during the normal course of business is a Public Record. However, if that handwritten note is formalized by word processing (for example) into a final intended record, the handwritten note ceases to be a Public Record and may be destroyed as non-record material since the information contained within the handwritten note has been transferred to the final intended record. Yet, to continue the example, a collection of handwritten notes from which information is extracted as a conclusion and represented in some other record is a Support Document. The extracted data does not reflect the entire informational content of the collection of handwritten notes, but merely supports a conclusion represented by another Public Record.

Public Documents, Blank (Unused) Forms, and Printed Material

Chapter 257.05, F.S. defines information that has been funded in whole or in part by the Legislature and printed to distribute information to the public as a *Public Document*. A Public Document, as defined by Chapter 257.05, F.S., **is not a Public Record**, according to the Florida Department of State (DOS). For example, an inventory of promotional information is not a Public Record for scheduling and disposition purposes and is actually a Public Document (i.e. property); however, the camera-ready copy used to create the promotional material is a Public Record. Blank, unused forms are another example of a non-record. Using this same logic, similar printed material *received* by the City may also be exempted from the Public Records Program including magazines, books and other published works, newsletters, advertising (junk mail and even *personalized* junk mail), and catalogues.

Goals

The City has adopted eight long-term records management goals:

1. Retention and disposition of public records in accordance with all state and federal requirements (*including, but not limited to,*

Chapter 119 and 257, F.S. and Chapter 1B-24, F.A.C., and Chapter 1B-26, F.A.C.).

2. Management access to both active and inactive records in an accurate and timely fashion (to include a filing system and consideration of imaging potential);
3. Retention of all records under secure conditions, preventing unauthorized access by both employees and third parties;
4. Protection of all records from physical calamity and decay;
5. Provision for the timely destruction of records at the end of their retention period in a secure manner;
6. Conversion of long retention records to microfilm;
7. Provision for disaster recovery; and
8. Achievement of these goals in the most cost-efficient manner available.

CATEGORIES

A successful Records Program requires an understanding of categories - the basic components into which record collections may be parsed for disposition purposes. To be easily understood throughout the City by all staff, these categories should be limited to a very basic *record series title* level. This is also a requirement of the Florida Department of State as outlined in Chapter 1B-24, F.A.C., for Scheduling and Disposition purposes. Basic information includes:

1. **Record Series Title.** A record series title is the name applied to a collection of information relating to the same subject or activity. The Record Series Title is determined by the Florida Department of State. For instance, Personnel File is the name of a collection of data about a specific employee. Personnel File is a convenient label for a nearly unlimited variety of information (the Personnel File must not contain medical information, see the Federal American's with Disability Act) and is an efficient way to identify that collection rather than attempting to list all documents actually contained within a Personnel File. Record retention schedules are approved by the Department of State per record series title, therefore every effort must be made to conform to existing Record Schedules. In some instances, a match to existing schedules will not be possible or desirable; or a collection of information will be identified that is unique, or specific to one organizational unit. In this instance, the City Records Management Liaison Officer (RMLO) should be contacted by staff for assistance.

2. **Inclusive dates.** The oldest date within the collection through to the most recent date eligible for disposition. Most record series titles will accumulate to the present.

3. **Volume** in cubic feet using the following conversions:

10"x12"x15" box	1.0
Letter-size drawer	1.5
Legal-size drawer	2.0
Letter-size 36" shelf	2.0
Legal-size 36" shelf	2.5

Records are then separated into four categories in accordance with Florida Department of State retention requirements:

1. Records within retention;
2. Records past retention, eligible for destruction;
3. Records with no approved retention; and
4. Records with sufficient retention or historical significance to justify conversion to microfilm.

Category One (Records within retention): Records may be further divided by active and inactive status. Active records should remain with the user until the termination of *administrative value*. Administrative value is the value a record series has for day-to-day function and operation. Inactive (or *less active*) records should be uniformly containerized and computer indexed for high density, low cost, secure storage until retention has been satisfied.

Category Two (Records past retention, eligible for destruction): Records should be destroyed without further delay, after inclusion on the City's Records Disposition List.

Category Three (Records with no approved retention): The City RMLO should submit to the Department of State a Form 105, Request for Records Retention Schedule to establish retention. The Form 105 is available for downloading as a Word or PDF Form from the Department of State web site [<http://dliis.dos.state.fl.us/recordsmgmt/publications.cfm>]. Based upon the Department of State approved retention, Category Three records should be reclassified to Category One, Two or Four.

Category Four (Records with sufficient retention or historical significance to justify conversion to microfilm): Records should be scheduled for conversion to microfilm, Computer Output Microfilm (COM) or

other storage device in priority order based upon media condition (worst case records stabilized first), series retention value (permanent records first), or administrative value (high reference records first).

The City's Records Management Program applies to all records, regardless of physical form, characteristics, or means of transmission, created or received by the City in connection with the transaction of official business. The City is charged with ensuring compliance with all relevant Florida Statutes and the Florida Administrative Code regarding access, the systematic retention, storage and disposition of all City records.

Section 257.36(5), Florida Statutes (F.S.) directs each agency to establish and maintain an active and continuing records management program to include inventorying, scheduling and disposition of records. Public Records Law, Chapter 119, F.S., provides, in part, Agency obligations for the access, control, storage, preservation and disposition of all Public Records. Section 119.011(12), F.S., defines **Public Records** as, "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."

The Florida Supreme Court of Florida in *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So. 2d 633 (Fla. 1980), provides in part a public record, for purposes of Chapter 119, "is any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type." The fact that information can be made or received electronically does not change the constitutional rule-mandated obligation of agencies and employees to direct and channel such official business information so that it can be properly recorded as a public record.

The City is obligated to ensure all records, including digital and electronic (email) communications are retained and disposed of in accordance with retention schedules as documented on the City's Disposition List. This List is prepared by the City RMLO and distributed to City Record Coordinators. Email retentions are content driven. There is no specific retention for Email, or any other digital data.

Copy of Record vs. Duplicate Records

An immediate problem will be the identification of copy of record vs. duplicate records. **Copy of Record** or Record (Master) Copy means the public record specifically designated by the City as the official, retention copy. **Duplicate Record** means all reproductions of copy of record or record (master)

copies, prepared simultaneously or separately, which are designated by the City as not being the copy of record. The City has adopted the policy the office of origin for *internally* generated documents holds the copy of record while receiving offices have duplicates. For *externally* generated records received by the City, the office which performs the last administrative act is designated as holding the copy of record.

Email

Email often engenders considerable confusion relative to Public Records Law. Retentions are not written for media types. Email is a media type and has no specific retention. The retention for email is content driven. Retentions are written for informational content by record series title. Some Email is *interoffice memoranda* and *correspondence*. Some Email (or more often attachments to email) may include record series titles with even greater retention. Most often, Email is a *transitory message* with an OSA (Retain until Obsolete, Superseded or Administrative Value is Lost) retention. Some email is personal and private. See City Email Policy attached.

DISPOSITION

Disposition is the application of approved retention schedules to record series titles. By far, the most economical solution to public records management is to destroy based on Department of State approved retention schedules. Records should be destroyed as soon as legally possible.

Destruction

The procedures for destroying public records are outlined in Chapter 1B-24, Florida Administrative Code. The City continues to be responsible for all records created since the start date of the City until the record has been obliterated pursuant to DOS approved retentions, including any relevant records created by private entities acting on behalf of the City. Therefore, records that are "missing" remain the legal responsibility of the City. Further, records offered for recycling when disposition warrants continue as Public Records until obliterated.

By written policy, the Department of State has approved the use of landfills for the destruction of records that have met retention, provided the data set does not contain any exempt data elements. The City may also sell record media (not the informational content) for paper recycling. Recycling is a good way to destroy records and render the records unreadable, especially where

security is an issue. Public Records may not be sold or given away. The City must maintain Public Records through to destruction. Although copies may be sold pursuant to Access provisions in Chapter 119, F.S., once sold, the copies are no longer Public Record unless sold to other Florida Public Agencies.

Chapter 1B-24, F.A.C., provides for the loaning of city records to “another governmental jurisdiction or to a non-government historical records repository or historical society,” **however, this practice is not recommended.** For records in the hands of Private Entities acting on behalf of the City, all RFP’s and contracts should stipulate Public Records obligations prior to any service agreement.

Disposition List

The Disposition List must represent *actual* destruction, hence the need to destroy all present accumulations eligible. This includes all media. If paper records are destroyed, yet digital records of the same information and record series title are maintained, the Disposition List is incorrect. Ending dates must be amended to accurately depict accumulations not destroyed. As new Schedules are approved for the City, add these titles and appropriate dates to the List. If source documents relative to destruction are produced (certificates of destruction from recyclers, etc.) attach these and reference in **box 6., column f. and box 7.**

Critical to the success of a Disposition program is the ability of Record Coordinators to identify when retention is complete. For most City records, this occurs at some retention specific date based on *creation* of the record. Some records retention is tied to an *event*, for example, *five years after final disposition*. Most often Record Coordinators are in a position to determine these events, and therefore, calculate retention. For this reason, a Contract Manager is strongly advised. Contract retention is in part tied to completion. Without a dedicated Contract Manager, contract disposition is greatly complicated.

Duplicates should only be created for administrative or convenience purposes and then discarded when that purpose is terminated, or maintained for preservation of Vital Records as described in the “Vital Records Protection Section.” Every effort should be exercised to create only those records required by statute, administrative code or as mandated by the courts. This issue is most often driven by business process.

Further, so-called *duplicate personnel files* not be maintained throughout City Departments. Often these so-called duplicate files are not actually personnel files, as identified in DOS General Records Schedules. Instead, name these collections based on function, and then follow appropriate retention.

DISPOSITION PROCEDURE

RMLO. City Records Management Liaison Officer designated in writing to the Florida Department of State. The RMLO coordinates the City's Records Program.

Custodian. The elected or appointed state, Agency, or municipal officer charged with the responsibility of maintaining the office having public records or his or her designee.

Record Coordinators. Employees of the City responsible for the coordination of Public Records activities for their respective Department.

Retention Schedule. A listing of all records created or received by the City and retained based on legal, administrative, fiscal and/or historic value as specified by Florida Department of State General Schedules, or as approved by the Department of State for unique records held by the City.

Performed By:

Step/Action/Responsibility:

City RMLO:

1. Prepare Disposition List in accordance with Chapter 1B-24, Florida Administrative Code each October.

Record Coordinators:

2. Review unit assigned records to identify records eligible for destruction in accordance with City generated Disposition List, verifying inclusive dates and record series titles. Submit revised List to City RMLO for review.

City RMLO:

3. Revise Disposition List based on Coordinators review, as appropriate and return List to Coordinators.

Record Coordinators:

4. Initiate disposal of Public Records documenting cubic foot volume destroyed using the following conversion chart, and forward List to City RMLO when complete, no later than September 30.

Record Unit Cubic Foot Volume

10"x12"x15" box	1.0
Letter size drawer	1.5
Legal size drawer	2.0

Letter size 36" shelf	2.0
Legal size 36" shelf	2.5.

PERSONNEL FILES

Personnel Files may be the most sensitive record government creates, due in main part to the *personal* nature of the data. As defined by Florida Law, however, Personnel Files are clearly Public Records open to inspection by any person. Yet, Personnel Files often contain information that is specifically exempt from inspection. See **Chapter 119, F.S.**, for general access requirements and some specific exemptions). Although section 119.071, F.S., provides some specific exemptions to Public Records Access, most Florida statutory access exemptions are spread throughout the body of Florida law. The Government-in-the-Sunshine Manual, published by the First Amendment Foundation, and referenced as a source used during the compilation of this report, provides the best current list of exemptions in statutory order; second only to the statutes themselves. In addition, some Federal requirements must be considered in addition to Florida law, as a basis for determining access relative to Personnel Files. Following is a general discussion of these access requirements.

Generally, medical information about a specific employee is exempt from general inspection. Although it is perfectly legal to collect such information, it is generally protected. Statistical information about medical or health information is generally open to inspection provided personal identifiable information is withheld. See **section 119.071(4), F.S.**, for a body of information exempt from general inspection for a *specific* group of potential City employees.

Title I of the Americans with Disabilities Act precludes filing *disabilities* information (read *medical*) within the Personnel File. However, the Department of State retention schedule requires that these Medical Records, although maintained separately, be maintained according to the same retention requirements as the employee personnel file. Polygraph results are not considered medical as defined in the ADA. The following is an excerpt from an EEOC publication, ENFORCEMENT GUIDANCE: DISABILITY-RELATED INQUIRIES AND MEDICAL EXAMINATIONS OF EMPLOYEES UNDER THE AMERICANS WITH DISABILITIES ACT (ADA). <http://www.eeoc.gov/policy/docs/guidance-inquiries.html>. A "medical examination" is a **procedure or test that seeks information about an individual's physical or mental impairments or health**. The guidance on Pre-employment Questions and Medical Examinations lists the following factors that should be considered to determine whether a test (or procedure) is a medical examination: (1) whether the test is administered by a health care professional; (2) whether the test is interpreted by a health care professional; (3) whether the test is designed to reveal an impairment or physical or mental health; (4) whether the test is invasive; (5) whether the test measures an employee's performance of

a task or measures his/her physiological responses to performing the task ; (6) whether the test normally is given in a medical setting; and, (7) whether medical equipment is used.

In many cases, a combination of factors will be relevant in determining whether a test or procedure is a medical examination. In other cases, one factor may be enough to determine that a test or procedure is medical. **Medical examinations** include, but are not limited to, the following:

- vision tests conducted and analyzed by an ophthalmologist or optometrist;
- blood, urine, and breath analyses to check for alcohol use;
- blood, urine, saliva, and hair analyses to detect disease or genetic markers (e.g., for conditions such as sickle cell trait, breast cancer, Huntington's disease);
- blood pressure screening and cholesterol testing;
- nerve conduction tests (i.e., tests that screen for possible nerve damage and susceptibility to injury, such as carpal tunnel syndrome);
- range-of-motion tests that measure muscle strength and motor function;
- pulmonary function tests (i.e., tests that measure the capacity of the lungs to hold air and to move air in and out);
- psychological tests that are designed to identify a mental disorder or impairment; and,
- diagnostic procedures such as x-rays, computerized axial tomography (CAT) scans, and magnetic resonance imaging (MRI).

There are a **number of procedures and tests employers may require that generally are not considered medical examinations**, including:

- tests to determine the **current illegal use of drugs**;
- **physical agility tests**, which measure an employee's ability to perform actual or simulated job tasks, and **physical fitness tests**, which measure an employee's performance of physical tasks, such as running or lifting, as long as these tests do not include examinations that could be considered medical (e.g., measuring heart rate or blood pressure);
- tests that evaluate an employee's ability to read labels or distinguish objects as part of a demonstration of the ability to perform actual job functions;
- **psychological tests** that measure personality traits such as honesty, preferences, and habits; and,
- polygraph examinations.

Under the ADA, polygraph examinations, which purportedly measure whether a person believes she/he is telling the truth in response to a particular inquiry, are not medical examinations. However, an employer cannot ask disability-related questions as part of the examination. See Pre-employment Questions and Medical Examinations, supra note 2, at 17, 8 FEP at 405:7199. However,

section 119.071(1)(a), F.S., provides in part an exemption to actual answers to questions.

The Attorney General's Office reports it is not aware of any statutory provision barring access to otherwise public records, simply because the records are in the form of polygraph charts. See, e.g., *Wisner v. City of Tampa Police Department*, 601 So. 2d 296 (Fla. 2d DCA 1992) (polygraph materials resulting from polygraph examination that citizen took in connection with a closed internal affairs investigation were public records); and *Downs v. Austin*, 522 So. 2d 931 (Fla. 1st DCA 1988) (because state had already publicly disclosed the results of polygraph tests administered to defendant's accomplice, the tests were not exempt criminal investigative or intelligence information and were subject to disclosure to the defendant). However, the section 119.071(1)(a), F.S., exemption for questions and answers used in employment examinations applies to questions and answers contained in pre-employment polygraph examinations. *Rush v. High Springs*, 82 So. 3d 1108 (Fla. 1st DCA 2012). This exemption applies to examination questions and answers but does not include the "impressions and grading of the responses" by the examiners. See *Dickerson v. Hayes*, 543 So. 2d 836, 837 (Fla. 1st DCA 1989). See also *Gillum v. Times Publishing Company*, No. 91-2689-CA (Fla. 6th Cir. Ct. July 10, 1991) (newspaper entitled to access to employment polygraph records "to the extent such records consist of polygraph machine graph strips and examiners' test results, including the bottom portion of the machine graph denoted 'Findings and Comments' or similar designation." However, agency could redact "any examinee's actual answers to questions or summaries thereof").

Further, **Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Civil Rights Act of 1991** seems to preclude filing information about race, sex, age and national origin in a Personnel File. *Information about race, sex, age and national origin* can obviously include a nearly limitless number of specific records and can create a great deal of doubt as to whether or not a specific piece of information should be placed in the Personnel File, and then whether or not it is open to inspection. The problem with many Personnel Files is that they are used as a catch all for information that relates to a specific employee - a case file of sorts. Although this practice is convenient, it usually creates the potential for information that is not open to inspection being seen by unauthorized parties during routine and otherwise legal record reviews.

The best practice is to create only those records about an individual that are directly related to and necessary for work performance. The Florida Department of State's Retention Schedule GS1-SL indicates a rather extensive collection for retention. Every other record commonly found within a Personnel File and identified as another Record Series Title with a far shorter retention should not be commingled with the Personnel File. To file documents with Record Series Title and Retention in mind will greatly mitigate exposure to violations of

employee privacy issues by allowing Agencies to legally destroy information within relatively short periods of time as a series other than Personnel File; and by eliminating accidental review since the offending information is not in the Personnel File in the first place.

Consultant recommends only one Personnel File per employee be maintained by the City with the copy of record housed in the Human Resources (HR) Department. It is dangerous to maintain other *copy of record* Personnel Files, or even *duplicate* Personnel Files in units other than HR. For access security, there should be only one location for each Personnel File. Access issues for Personnel Files are complicated and should be handled by trained staff. Personnel staff in a position to grant access to Personnel Files should be thoroughly educated in State and Federal Requirements relative to all aspects of employee data. In the experience of the Consultant, so called *duplicate* Personnel Files *never* are; they invariable contain unique information. Supervisors may create files on staff for the purpose of performing Employee Appraisals or Evaluations. These specific files should be named as such and never referred to as *Personnel Files*.

The disposition of Personnel Files should be based on retention schedules approved by the Florida Department of State as documented on the City's Disposition List. Data should be containerized based on retention. Every container should include data with the same destruction date. Personnel staff should very carefully study the Disposition List, compare personnel related record series titles to the descriptions in the General Schedule and containerize based on destruction date. The imaging of data, as previously discussed should be based on activity. Hardcopy storage is usually far more economical.

Form I9, Employment Eligibility Verification

The retention and maintenance of **Form I9, Employment Eligibility Verification**, is rather awkward. Consultant recommends I9's be filed separate from the Personnel File until 3 years after termination and then transferred to the Personnel File for remaining retention. Further, the Handbook for Employers: Instructions for Completing Form I-9 published by U.S. Citizenship and Immigration Services states: "You may choose to copy or scan documents presented by an employee, which you must retain with his or her Form I-9. Even if you retain copies of documentation, you are still required to fully complete Section 2 of Form I-9. If you chose to retain copies of employee documentation, you must do so for all employees, regardless of national origin or citizenship status, or you may be in violation of anti-discrimination laws."

Indexing Structure, Personnel Records

The following file tree for Personnel related records is offered. It is driven by several goals: efficient access to data, the parsing of data based on retention, and the security of data not ordinarily open for inspection to the general public.

I. Personnel: Non-FRS – 50 years after separation or termination

A. Active / Inactive

1. Employee Name / Date of Separation

Application

- Application
- Interview Questions and Rating Sheets
- Job Description
- I-9
- Conditional Offer of Employment
- References
- Drivers Record Clearance Letter
- Criminal Background Check
- Pre-Employment Drug Test Results

Employee History

- Military Service
- Polygraph

Signed Policies

- Policies and Procedures
- Certification of IT Usage
- Loyalty Oath
- Notice of Emergency Duty Responsibilities
- Drug Testing Consent Agreement and Acknowledgement Form
- Equal Employment Opportunity
- Overtime for Non-Exempt Employees
- Dress Code
- Other

Certified Trainings or Seminars

- Training certificates

Evaluations

- Evaluations
- Recognition and Commendations

Discipline Final Action

- Disciplinary Final Action Summary

FDLE forms

- FDLE - CJSTC 58** - Background Investigation Waiver
- FDLE - CJSTC 60** - Affidavit of Compliance
- FDLE - CJSTC 62** - Fingerprint Notification
- FDLE - CJSTC 63** - Salary Incentive Report
- FDLE - CJSTC 68** - Affidavit of Applicant
- FDLE - CJSTC 77** - Employment Background
Investigative Report

Background

- Hiring Exams

Personnel - Retirement

- **401A** and/or **457** Applications & Confirmations
- **FRS** Applications & Confirmations

II. Personnel: Part Time – 3 years after separation or termination

A. Active / Inactive

1. Employee Name / Date of Separation

Application

- Application
- Interview Questions and Rating Sheets
- Job Description
- I-9
- Conditional Offer of Employment
- References
- Drivers Record Clearance Letter
- Criminal Background Check
- Pre-Employment Drug Test Results

Employee History

- Military Service
- Polygraph

Signed Policies

- Policies and Procedures
- Certification of IT Usage
- Loyalty Oath
- Notice of Emergency Duty Responsibilities
- Drug Testing Consent Agreement and
Acknowledgement Form
- Equal Employment Opportunity
- Overtime for Non-Exempt Employees
- Dress Code

- Other

Certified Trainings or Seminars

- Training Certificates

Evaluations

- Evaluations
- Recognition and Commendations

Discipline Final Action

- Disciplinary Final Action Summary

Background

- Hiring Exams

III. Medical – Exempt

A. Non-FRS – 50 years after separation or termination

1. Active – Inactive

a. Employee Name / Date of Separation

- Dental Insurance
- Vision Insurance
- Life Insurance
- Other Insurance
- Short and Long Term Disability Forms
- Physical
- Psychological

B. Part Time – 3 years after separation or termination

1. Active – Inactive

a. Employee Name / Date of Separation

- Other Insurance
- Psychological

I. Personnel: FRS – 25 years after separation or termination

A. Active / Inactive

1. Employee Name / Date of Separation

Application

- Application
- Interview Questions and Rating Sheets
- Job Description
- I-9
- Conditional Offer of Employment
- References

- Drivers Record Clearance Letter
- Criminal Background Check
- Pre-Employment Drug Test Results

Employee History

- Military Service
- Polygraph

Signed Policies

- Policies and Procedures
- Certification of IT Usage
- Loyalty Oath
- Notice of Emergency Duty Responsibilities
- Drug Testing Consent Agreement and Acknowledgement Form
- Equal Employment Opportunity
- Overtime for Non-Exempt Employees
- Dress Code
- Other

Certified Trainings or Seminars

- Training certificates

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FDLE - CJSTC 63 - Salary Incentive Report

FDLE - CJSTC 68 - Affidavit of Applicant

FDLE - CJSTC 77 - Employment Background
Investigative Report

Background

- Hiring Exams

Personnel - Retirement

- **401A** and/or **457** Applications & Confirmations
- **FRS** Applications & Confirmations

IV. Medical – Exempt

A. FRS – 25 years after separation or termination

1. Active – Inactive

a. Employee Name / Date of Separation

- Dental Insurance
- Vision Insurance
- Life Insurance
- Other Insurance
- Short and Long Term Disability Forms
- Physical
- Psychological

B. Part Time – 3 years after separation or termination

1. Active – Inactive

a. Employee Name / Date of Separation

- Other Insurance
- Psychological

Other Employee Records

The following consists of Employee related records series identified by the Department of State and listed in the GS1-SL General Records Schedule for State and Local Agencies. These items should be filed separately from the Employee Personnel File.

Access Control Records

- Identification Badge records
- Parking Assignment records
- Network Account and Permission Records

Attendance and Leave Records

Complaints: Citizens/Consumers/Employees

Disciplinary Case Files: Employees

Drug Test Case Files

- Drug Test Chain of Custody Forms
- Post Accident Drug/Alcohol Testing Records
- CDL Drug / Alcohol Testing Records

Employee Conduct Counseling Records

Exposure Records

Federal Income/Employment Tax Forms/Reports

- W4s

Grievance Files

Health Records: Blood Borne Pathogen/Asbestos/Exposure

Injury Records

Medical Records (not required for insurance or employment)

Payroll Records: Court-Ordered Garnishment

Payroll Records: Deduction Authorizations

Payroll Records: Not Posted

Payroll Records: Posted

Payroll Records: Supporting Documents

Personnel Records: Supplemental Documentation

- Training Records/Certificates (not necessary for hiring or continued employment)

Vehicle Accident Records

Workers' Compensation Records

FILING SYSTEMS

Filing systems must address storage and retrieval. Commonly, agencies emphasize storage devices and not retrieval. The most common arrangement is most often alphabetical subject while the most common equipment is vertical file cabinets followed by lateral file cabinets, both utilizing a drawer. Common to the lateral file cabinets are hanging folders, together with manila folders.

City Wide Filing

Arrangement, equipment and supplies should be standardized. A Modified Alpha-Numeric Mnemonic System (*Mnemonic*, which means helping, or meant to help, the memory) is ideal. The key to the system is the coding. The file codes consist of a combination of letters and numbers representing a particular function. Resist the temptation to assign primary codes based on organization. Information is the same regardless of organizational location or creation. There is no reason to code the record differently from one *location* to another. The subjects are assigned file codes to facilitate classifying, sorting and filing. The coding system consists of a three-letter symbol (short title mnemonic symbol) for each major category. The codes also cross year lines. Use the same codes year after year. Use date labels to identify years.

The coding scheme allows for maximum flexibility and permits the addition of new symbols without changing symbols assigned to other subjects and without breaking the continuity of the pattern. Inventory data must be used to identify and therefore, code all record series titles. Codes must be maintained on PC to facilitate the inclusion of new codes and the printing of manuals. The system creates a cross index by subject and provides a measure of security. No index, no access. The system is driven by an application written using Microsoft Access.

Each primary code allows for 999 secondary codes. If volume requires later for an existing three letter primary code, the primary code may be shortened to two letters as an *associated* primary code. This will allow an additional 9,000 secondary codes. It is also possible to reverse the arrangement to double capacity. For example, if category ACC 000, accounting records is used 999 times, and additional secondary categories are required; create 000 ACC as an *additional* accounting category.

For each primary code, enter a secondary code of "000" which is also not used as a file label. This serves as a known address for primary code names. For example, BUD-000 is the primary category for Budget Records. Users may enter BUD-000 in the search function to learn that BUD-123 is a budget category. Avoid the use of *General* and *Miscellaneous* as categories.

Dovetail existing, logical arrangements into the system. For example, if purchase orders are coded as PUR-123, arrange purchase orders in numeric order following PUR-123. There is no reason to code *each* purchase order with a unique secondary code. The existing purchase order number is sufficient. The advantage, however, is that users know where purchase orders are located within the system.

Responsibility for writing codes *must* rest with only one person at a time to ensure consistency. Users must have a *read only* version available on the network.

Codes (primary and secondary) may then be linked to record series titles. This will eliminate confusion regarding retention. Use a separate, updateable database for this purpose, also available as read only on the network. Record Coordinators should be employed to suggest the code/series title link.

Impose annual cut-offs to facilitate disposition standards together with color coded dates or date labels. Do not commingle records with different destruction dates within the same file unless the City is prepared to keep all the records for the longest retention. It would be better in most instances to physically separate records with different retentions for destruction purposes. Destruction, when approved by the Department of State, is the most cost effective records management solution the City may employ short of not creating the records in the first place. Do not incorporate duplicate or convenience copies into the filing system. Do not convert existing collections except for active files.

Open shelf lateral filing equipment, as is usually seen in Doctor's Offices, is far superior in every way to standard vertical file cabinets as a means of providing access to hard copy files. A fewer number of open shelf units, on less floor space, for less initial equipment cost per cubic foot stored, will provide nearly twice the density of storage per square foot of floor space as compared to standard file cabinets. Further, end tab filing will allow for enhanced systems

designed to reduce misfiles, and speed retrieval and refile activities. Open shelf units come in a variety of sizes, an option between single and double entry, and choice between cantilever and four post configurations.

Adhere labels following scores or imprints on the folder to ensure labels line up and create a consistent color bar arrangement. Use labels from one vendor to ensure consistent colors. **Do not overload floor capacity**, especially upper floors. Ground floor, monolithic slabs are not an issue. Consider that the average cubic foot of records weighs approximately 35 pounds.

ACCESS

Whereas scheduling is the heart of a Records Management Program, access is the heart of Florida's Public Records Law. Florida has the most rigorous Public Records Law in the World, bar none! We have been described as having the most *open* government in the World. Government in the Sunshine is not a hollow phrase. In Florida, all Public Records are open to inspection during reasonable times and under reasonable conditions, to any person for whatever reason; unless specifically exempted by law. Access to Public Records in Florida is the most complicated and challenging aspect of managing information in a Public Agency (for staff *and* for the public). During the 1970's most court cases relative to Florida's Public Record Laws were triggered by the question of whether a particular piece of information *was* a Public Record. Since 1980, most Public Record cases concern access.

One of the very best sources of information relative to Florida Public Records access is the **Government-in-The-Sunshine Manual** published by the **First Amendment Foundation (FAF)**. A new volume is usually available every January, however ordering, delivery and printing delays often reach into February. The telephone number to secure a copy is (850) 224-4555. You can also order a copy via the FAF website [www.floridafaf.org]. An abridged online version of the Manual is available on the Florida Attorney General's website [<http://www.myflsunshine.com>].

The City must be concerned with internal administrative access also, hence the need for intelligent filing systems, technology, scheduling and destruction. If in-house administrative access is insufficient, then public access obviously suffers, also. See City Public Records Request Policy.

HIPAA

The Health Insurance Portability and Accountability Act was signed into law in 1996 with a deadline for compliance of April 14, 2003. This federal

legislation includes standards for protecting the privacy of medical and health information and requires covered entities to limit the use and disclosure of Protected Health Information (PHI). There are civil and criminal penalties.

Relevant Access Limitation Sections, F.S.

The following is offered as a guide, and is not meant to be all-inclusive. Further, the entire section must be read by related record holders. The following is paraphrased for quick reference:

Section 17.076(5)

Direct deposit records made prior to October 1, 1986 are exempt. Same records made on or after October 1, 1986, names of financial institution, and account numbers of beneficiaries are exempt.

Section 17.325(3)

A call on the governmental efficiency hotline established by the Comptroller may be anonymous; name is confidential.

Section 44.102(3)

Except as otherwise provided in this section, communications in a court-ordered mediation proceeding are exempt from Chapter 119.

Section 73.0155

Business records provided by a business owner to a condemning authority are exempt.

Section 110.1091(2)

Employee assistance program (EAP) records are exempt from inspection.

Section 110.1127(3)(d) and (e)

Makes it a crime to misuse criminal records obtained for security background checks, and to misuse juvenile records.

Section 110.123(5)(a)

Physician's fee schedule used in health and accident plan exempt, except to persons involved in administration of state group insurance program.

Section 112.08(7)

Medical records and medical claims records exempt.

Section 112.21(1)

Records identifying government employees participating in any contract or account relating to tax-sheltered annuities or custodial accounts and the account activity is exempt from inspection.

Section 112.215(7)

Records identifying individual participants in any deferred compensation plan are exempt from inspection.

Section 112.3188(1)

Protects information relating to the violation by public officials or independent contractors of certain crimes.

Section 112.324(2)(a)

Protects information relating to investigation of a sworn complaint of a violation of this section.

Section 112.533(2)(a)

Complaints and information obtained pursuant to investigation of complaints against law enforcement officer exempt from inspection.

Section 119.071(1)(a)

Examination questions and answer sheets for the purpose of licensure, certification, or employment are exempt.

Section 119.071(1)(b)1a

Sealed bids or proposals received by the agency are exempt until such time as the agency provides notice of a decision or intended decision or within 10 days after bid or proposal opening, whichever is earlier.

Section 119.071(1)(c)

Any financial statement that an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt.

Section 119.071(1)(d)1

A public record prepared by an agency attorney is exempt (see section).

Section 119.071(2)(c)1

Active criminal intelligence information and active criminal investigative information are exempt.

Section 119.071(2)(c)2a

A request made by a law enforcement agency to inspect or copy a public record and the custodian's response and any information identifying whether a law enforcement agency has requested or received that public record are exempt during the period in which the information constitutes active criminal intelligence information or active criminal investigative information.

Section 119.071(2)(d)

Surveillance techniques or procedures or personnel is exempt (see section).

Section 119.071(2)(g)1a

All complaints and other records in the custody of any agency which relate to a complaint of discrimination are exempt (see section).

Section 119.071(2)(j)1

The identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime is exempt.

Section 119.071(2)(j)1

The home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt upon written request by the victim. Information shall cease to be exempt 5 years after the receipt of the written request (see section).

Section 119.071(2)(j)2a

Any information in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct (see section).

Section 119.071(3)(a)1

Security System Plan held by an agency is exempt (see section).

Section 119.071(3)(b)1

Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency are exempt.

Section 119.071(3)(c)1

Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development, which documents are held by an agency are exempt.

Section 119.071(4)(a)

Social Security Numbers of all current and former agency employees are confidential and exempt.

Section 119.071(4)(b)1

Medical information pertaining to prospective, current or former officers or employees is exempt (see section).

Section 119.071(4)(b)2a

Personal identifying information of a dependent child of a current or former officer or employee of an agency, which dependent child is insured by an agency group insurance plan, is exempt.

Section 119.071(4)(d)1a

The home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel; correctional and correctional probation officers; personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities; personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect; and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement are exempt. The home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt.

Section 119.071(4)(d)1b

The home addresses, telephone numbers, and photographs of Certified Firefighters are exempt. The home addresses, telephone numbers, photographs, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt.

Section 119.071(4)(d)1f

The home addresses, telephone numbers, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties are exempt. The names, home addresses, telephone numbers, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt.

Section 119.071(4)(d)1g

The home addresses, telephone numbers, and photographs of current or former code enforcement officers are exempt. The names, home addresses, telephone numbers, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt.

Section 119.071(5)(a)(5)

Social Security Numbers held by an agency are confidential and exempt.

Section 119.071(5)(b)

Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt.

Section 119.071(5)(c)2

Information that would identify or locate a child who participates in government-sponsored recreation program is exempt.

Section 119.071(5)(c)3

Information that would identify or locate a parent or guardian of a child who participates in a government-sponsored recreation program is exempt.

Section 119.071(5)(d)

All records supplied by a telecommunications company which contain the name, address, and telephone number of subscribers are confidential and exempt (see section).

Section 119.071(5)(e)

Any information provided to an agency for the purpose of forming ridesharing arrangements, which information reveals the identity of an individual who has provided his or her name for ridesharing is exempt.

Section 119.071(5)(f)

Medical history records and information related to health or property insurance provided to a municipality by an applicant for or a participant in a federal, state, or local housing assistance program are confidential and exempt.

Section 119.071(5)(g)1

Biometric identification information held by an agency is exempt.

Section 119.105

A person who comes into possession of exempt or confidential information contained in a police report may not use that information for any commercial solicitation of the victims or relatives of the victims of the reported crimes or accidents and may not knowingly disclose such information to any third party for such purposes as long as that information is exempt. Violation of this section is a **third degree felony**.

Section 121.031(5)

Retirees' names and addresses are exempt from inspection as authorized by this subsection.

Section 121.4501(19)

Personal identifying information regarding a participant in Optional Retirement Program in FRS is exempt.

Section 163.01(15)(m)

Information received by a public agency in connection Florida Interlocal Cooperation Act that is proprietary is confidential.

Section 163.64

Participation in the creation or administration of a collaborative client information system may share information as long as restrictions are observed relative to confidential information.

Section 166.0444(2)

Municipal employee's personal identifying information relating to EAP is exempt.

Section 166.045(1)

Appraisals, etc., relating to a municipality's purchase of real property exempt.

Section 192.0105(4)

Taxpayers have right to have info kept confidential, including records.

Section 192.105

Federal tax information obtained pursuant to 26 U.S.C. s. 6103 is confidential.

Section 213.015(9)

Taxpayers have right to have taxpayer information kept confidential.

Section 252.88(2) and (3)

Specific hazardous chemicals location withheld.

Section 259.041(8)(c)

Offers and counteroffers for land acquisition are exempt, until . . .

Section 281.301

Information regarding security systems for any property owned by or leased to government agencies.

Section 282.318(2)(a)

Protects from inspection information relating to risk-analysis, results of internal audits and evaluations relating to data security and information technology and related internal policies and procedures (see section).

Section 316.066(5)(a)

Specific data contained in Motor Vehicle crash reports exempt.

Section 320.025(3)

Law enforcement agency registration application records exempt.

Section 322.126(3)

Disability reports exempt and used only to determine qualification to operate motor vehicle.

Section 322.142(4)

Restricts reproduction of driver's license photographs and signatures.

Section 381.004(3),(4),(5),(6)

HIV test results and the identity of the person tested are exempt from inspection except as other provided.

Section 382.013(4) and (5)

Birth certificate information exempt from inspection.

Section 382.025(1)

Except for those over 100 years old and not under court ordered seal, all birth records of this state are exempt from inspection, except as provided.

Section 384.287(6)

Information relating to HIV infection shall remain confidential as provided by law.

Section 395.1025

Notification to EMT of patient infectious disease done in a manner to protect confidentiality and not include patient's name.

Section 401.30(4)

Emergency call records with patient exam or treatment information exempt.

Section 440.102(8)

Drug testing records exempt.

Section 443.1715(3)(b)

Unless otherwise authorized by law, information received by an employer through a drug-testing program or by a public employee under this chapter is exempt from inspection.

Section 447.307(2)

Petitions and dated statements signed by employees regarding whether employees desire to be represented in a proposed bargaining unit are exempt from inspection except to verify and challenge signatures as provided by the subsection.

Section 624.311(2)

Records of insurance claim negotiations are exempt from inspection until termination of litigation and settlement of all claims.

Section 744.708(2)

Personal or medical records of a ward of a public guardian are limited access.

Section 760.40(2)(a)

DNA analysis results held by a public entity are exempt from inspection except as provided in the subsection.

Section 760.50(5)

Information relating to employee medical conditions covered by health or life insurance provided or administered by the employer are exempt from inspection.

Section 768.28(16)(b)

Claim files maintained by risk management programs are exempt from inspection except as provided by this subsection, until final determination (see section).

Section 768.28(16)(d)

Minutes of certain meetings and proceedings (see section) of a risk management program are exempt from inspection until termination of all litigation.

Section 794.024

Photograph, name or address of a person alleged to be a victim of an offense described in this chapter (sexual battery), chapter 800 (lewdness, indecent exposure), s. 827.03 (aggravated child abuse), s. 827.04 (child abuse), or s. 827.071 (sexual performance by a child).

Section 794.03

Unlawful to publish or broadcast information identifying sexual offense victim.

Section 815.04(3)(a)

Data, programs or supporting information, which is a trade secret as, defined in s. 812.081, which is part of a computer system held by an agency as defined in Chapter 119, is exempt from inspection.

Section 914.27

Confidentiality of victim and witness information.

Section 934.33(7)

Specified identifying information regarding the installation and use of a pen register or trace device.

Section 937.028(1)

Fingerprints; missing children.

Section 943.046(1)

Notification of criminal offender information.

See also:

Drivers Privacy Protection Act, 18 U.S.C. § 2721 et. seq., (Public Law 103-322), **Prohibition on release and use of certain personal information from State motor vehicle records.** In summary:

In General any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained in connection with a motor vehicle record including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions. "Motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles. "Person" means an individual, organization or entity, but does not include a State or agency thereof; and "personal information" means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.